

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

GUILLERMO S. HERNANDEZ,)
Petitioner,)
v.) No. 2:10-cv-136-JMS-MJD
SUPERINTENDENT, Wabash Valley)
Correctional Facility)
Respondent.)

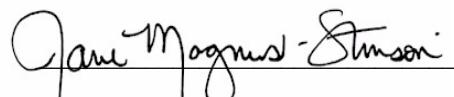
E N T R Y

The petition for writ of habeas corpus of Guillermo Hernandez was denied, as was issuance of a certificate of appealability. This disposition was followed by the filing by Hernandez of his motion requesting stay to file notice of appeal. Through this request Hernandez seeks a stay so that he can seek leave in the Indiana state courts to file a second or successive petition for post-conviction relief.

Hernandez's request for a stay [27] is **denied**. The submission of an additional claim at this point to seek federal habeas corpus relief—which is the most Hernandez could seek to accomplish through an unauthorized second or successive action for post-conviction relief—would constitute a second or successive petition for writ of habeas corpus and hence would require leave from the Court of Appeals. *Gonzalez v. Crosby*, 545 U.S. 524, 531-32 (2005). In short, there is nothing in the action which Hernandez proposes which would impact on the disposition of the action or any prospect of relief he could seek in post-conviction proceedings.

IT IS SO ORDERED.

Date: 05/10/2011



Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

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